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GROUP 3700

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 04142004

Application Number: 09/634,402
Filing Date: August 09, 2000
Appellant(s): LONG, LES

Jason W. Johnston & Tara E. Agnew
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/26/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 36-56 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

3,472,504	Murphy et al.	10-1969
3,513,743	Montguire	5-1970

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 36-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (3472504) in view of Montguire (3513743).

Murphy et al. disclose a set of folding boards (77'-77"', fig. 1). However, Murphy et al. do not disclose a rotatable frame with two or more sets of folding blades for replacing one set with a second set with locking assembly.

However, Montguire et al. teach the use of frame assemblies mounted for rotation about an axis to allow an operator to perform maintenance or tool changing (see col. 1, lines 50-62; col. 5, lines 17-24 and 33-35) on one frame assembly while the other frame assembly is being used, thereby, reducing down time. Therefore it would have been obvious to one having ordinary skill in the art at time of invention to have provided Murphy's folding apparatus with a second set of folding assembly (frame assembly, second bar and folding boards) where the first and second frame assemblies are mounted so as to rotate about an axis as taught by Montguire et al. to facilitate tool maintenance or tool changing of one assembly while the other frame assembly is being used to thereby reduce apparatus down time.

Regarding claim 48, Murphy et al. also lack the teaching of locking assembly. However, Montguire et al. teach a locking assembly (pin 142 and recess 144, fig. 4) to align the rotatable member in selected position (see col. 3, lines 72-75; col. 4, lines 1-2). Therefore it would have been obvious to one having ordinary skill in the art at time of invention to have provided Murphy's folding apparatus with a locking assembly as taught by Montguire et al. to align the rotatable member in selected position.

(11) Response to Argument

Appellants argue, page 6, that there is no motivation or suggestion to combine the references, Montguire ('743) clearly teaches the use of frame assemblies mounted for rotation about an axis to allow an operator to perform maintenance or tool changing on one frame assembly while the other frame assembly is being used, thereby, reducing down time. And therefore, one of ordinary skill in the art would modify the folding device of Murphy et al. by providing another set of web folding device and frame assemblies to which they are secured and rotatable about an axis as taught by Montguire. One of ordinary skill in the art would readily realize the benefits of Montguire's invention is obtainable even when adapted to a folding station or any web-treating workstation and it is well known in the art (see other cited references).

Appellants argue, page 8, that Murphy et al. teaches away from adding more web folding devices to its folding machine. However, more precisely, Murphy is concerned with reducing the number of different folding devices used to obtain a desired interfolded configuration (see col. 2, lines 29-32). That is, Murphy desires to reduce the numbers of folding devices 77', 77'', 77''', etc. "for a given number of webs" (col. 2, line

39). The teachings of Montguire do not destroy the invention of Murphy, as it does not suggest increasing the number of folding blades that are folding the webs. Montguire teaches providing multiple sets of the folding devices (with only one set working to work on the webs while the others are placed out of the way) to allow for servicing of a workstation while the workstation is in operation. This reduces downtime.

Appellants argue, page 10, that none of the references discloses or suggests a second set of web folding boards secured to a second frame assembly. Note that Murphy et al. disclose set of folding blades (77'-77"', fig. 1), and Montguire teaches the use of frame assemblies mounted for rotation about an axis to allow an operator to perform maintenance or tool changing on one frame assembly while the other frame assembly is being in use. Therefore it is within the abilities of one of ordinary skill in the art to mount the Murphy et al. set of blades on a second frame assembly. Appellants argument regarding the structure (pages 10-12) of Murphy et al. folding machine and Montguire's apparatus, note that the limitations on which Applicant relies (i.e. how successive pairs of tissue supply rolls are disposed, top and bottom track-ways, rectangular trolleys, mounting of multiple-head slitting apparatus on cross-shaped base, etc) are not stated in the claims. It is the claims and only claims that define the claimed invention.

In response to Appellants argument (page 12) that Montguire is nonanalogous art, it has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the

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particular problem with which the inventor was involved. *In re Wood*, 202 USPQ 171, 174. In this case, Montguire ('743) clearly teaches the use of frame assemblies mounted for rotation about an axis to allow an operator to perform maintenance or tool changing on one frame assembly while the other frame assembly is being used, thereby, reducing down time, and this is applicable to the folding apparatus of Murphy et al. ('504). While it is recognized that Montguire's device does not show a folding assembly, one of ordinary skill in the art would readily realize the benefits of Montguire's invention is obtainable even when adapted to a folding station or any web-treating workstation. Therefore it is obvious to one of ordinary skill in the art to combine the two references and provide the second set of folding assembly where the first and second frame assemblies are mounted so as to rotate about an axis to facilitate folding blades maintenance or changing of one assembly while the other frame assembly is being used to thereby reduce apparatus down time.

Respectfully submitted,

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April 15, 2004

Conferees


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